IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE JURISIDICTION

WRIT PETITION NO.10118 OF 2004

Vijaykumar Vasanji Mota ..Petitioner

Vs.

Damyanti Vijaykumar Mota ..Respondent

....

Ms.Kavita Basavraj for Petitioner
Mr.Sajan Oommen for Respondent

....

CORAM : B.H.MARLAPALLE,J.

DATE : FEBRUARY 8,2005

P.C.:

1. Heard Ms.Kavita Basavraj, the learned counsel for the petitioner-husband. By the impugned order in M.J.Petition No.A-1270 of 2001 passed on 21st May, 2004, the learned Judge of the Family Court No.2 has granted an amount of Rs.3000/- per month by way of interim maintenance to the wife. It is submitted that the presumption drawn by the Family Court in determining the amount of Rs.3000/- per month on the basis of the income of the petitioner is not realistic. The family Court noted that the income tax return was not placed before it and there was no proof produced by the husband regarding his exact monthly or annual income.

2. The learned counsel for the petitioner submitted that he is self-employed. He has placed before this Court the copies of the income-tax returns for the years 1999-2000 to 2003-2004 and it is noticed that in the first year, the taxable income was shown at Rs.51,700/- whereas in the subsequent three years, the same is being shown within a range of Rs.60,000/- to Rs.65,000/- per annum. Taking into consideration that the petitioner is a self-employed person, it would not be proper to hold that the directions to pay an amount of Rs.3000/- per month are manifestly erroneous so as to call for interference at the hands of this Court.

3. Petition is rejected summarily.

[B.H.MARLAPALLE,J.]